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Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Financing of the International Residual Mechanism for Criminal Tribunals

Final performance report on the budget of the International Criminal Tribunal for Rwanda and first performance reports of the International Tribunal for the Former Yugoslavia and the International Residual Mechanism for Criminal Tribunals for the biennium 2016-2017

Report of the Advisory Committee on Administrative and Budgetary Questions

I. Introduction

1. The Advisory Committee on Administrative and Budgetary Questions has considered the final performance report on the budget of the International Criminal Tribunal for Rwanda for the biennium 2016-2017: liquidation (A/71/577), the first performance report of the International Tribunal for the Former Yugoslavia for the biennium 2016-2017 (A/71/578) and the first performance report of the International Residual Mechanism for Criminal Tribunals for the biennium 2016-2017 (A/71/579). During its consideration of the reports, the Committee met with

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representatives of the Secretary-General, who provided additional information and clarification, concluding with written responses received on 2 December 2016.

II. International Criminal Tribunal for Rwanda

2. By its resolution 70/241, the General Assembly appropriated to the Special Account for the International Criminal Tribunal for Rwanda a total amount of $2,086,100 for the biennium 2016-2017 for the liquidation activities of the Tribunal during 2016.

3. The Secretary-General indicates in his report that the liquidation of the International Criminal Tribunal for Rwanda was initially expected to be completed by 31 May 2016. Activities included preparation of financial statements, support to the external auditors, disposal of assets, repatriation of personnel, processing of final entitlements, settlement of liabilities, recovery of receivables and repair and hand-over of premises. The report also indicates, however, that the liquidation process has experienced some delays necessitating an extension of two months to allow the completion of pending activities and ensure the final closure of the Tribunal (A/71/577, para. 4).

4. The Secretary-General also indicates that the estimated final level of expenditures for the International Criminal Tribunal for Rwanda for the biennium 2016-2017 amounts to $5,812,800, reflecting an increase of $3,726,700 (or 179 per cent) from the approved appropriation (A/71/577, para. 5). **The Advisory Committee notes with concern that the estimated final level of expenditure of the Tribunal will be almost three times as much as the level of the appropriation.**

5. Specifically, the projected variances by object of expenditure show significant increases under other staff costs amounting to $3,304,400. These increases are attributable to the following additional costs:

(a) Separation entitlements amounting to $1,753,000 in respect of the separation of Tribunal staff members who were separated during the biennium 2014-2015 and of the liquidation team during 2016. Upon enquiry, the Advisory Committee was informed that an amount of $3.2 million had been budgeted in 2015 for this purpose; however, the provision turned out to be insufficient owing to increased actual costs of entitlements. According to the Secretary-General, an inaccurate forecast of the requirements contributed to the overexpenditure;

(b) Education grant advances amounting to $1,177,500. The Advisory Committee was informed upon enquiry that this increase reflects the settlement of 2015 education grant advances against the 2016 budget for approximately 61 former Tribunal staff members for the 2015/16 scholastic year, for which no specific provision had been made in either the 2014-2015 budget or the 2016 liquidation budget. It was explained that education grant advances had been approved for the entire 2015/16 school year when the majority of the concerned staff members had in fact been separated by the end of 2015;

(c) Extension of the liquidation period by two months, from the end of May to the end of July 2016, amounting to $373,900. Upon enquiry, the Advisory

Committee was informed that a total of 14 positions were extended in June 2016 and 9 positions in July 2016, resulting in a total of 23 additional work-months and increased staff costs.

6. **The Advisory Committee considers that the inaccurate forecast of the requirements related to the education grant advances and the separation entitlements demonstrates weak management and a lack of internal control and accountability.**

7. The report of the Secretary-General also indicates increases under general operating expenses in the net amount of $172,900, which are mainly attributable to the write-off of long outstanding receivables (ibid., para. 10). Upon enquiry, the Advisory Committee was informed that the amount included over $200,000 relating to value added tax claims not submitted and excise tax erroneously paid to vendors, and nearly $65,000 in non-recoverable salaries and other entitlements paid to former staff members. The Committee was also informed that some of the cases of overpayment had been pending for several years prior to the liquidation of the Tribunal.

8. **The Advisory Committee regrets the magnitude of the write-offs and overpayments, which, in its view, could have been partially avoided, and considers that measures should have been in place to ensure their prompt recovery prior to the Tribunal's liquidation and anticipated separation of staff. The Committee is of the view that this again demonstrates weak management and a lack of internal control and accountability. Moreover, reporting of non-recoverable receivables only at the time of the liquidation limits the Organization's ability to take corrective measures, including ensuring appropriate steps to hold responsible officials accountable. The Committee recommends that the General Assembly request the Secretary-General to take the necessary steps to prevent the recurrence of any erroneous payments in the future and to ensure that lessons learned from the liquidation of the International Criminal Tribunal for Rwanda are applied in future liquidation processes.**

9. The Secretary-General further indicates that the requirements for travel increased by $13,800 in 2016. According to the Secretary-General, this increase is mainly attributable to the increased costs of air tickets for three missions undertaken by Tribunal staff to New York in connection with the liquidation (A/71/577, para. 8). Upon enquiry, the Advisory Committee was informed that at the time of the preparation of the 2016 liquidation budget, the average cost of a round trip ticket from the United Republic of Tanzania to New York City was estimated at $6,500 per trip. The average cost per trip, however, actually amounted to approximately $9,500. In this connection, the Committee was also informed that two of the three air tickets were booked in accordance with the prescribed advance booking policy. **While recognizing that airfares fluctuate, the Committee reiterates its views relating to the judicious use of travel resources, in particular its view that the primary consideration in authorizing official travel should be whether direct face-to-face contact is necessary for mandate implementation. The Committee also reiterates the importance of complying with the policy of advance ticket booking, to the greatest extent possible, as a means to limit travel costs (see also A/70/7, paras. 108 and 114).**

10. With regard to the decision to extend the liquidation period of the International Criminal Tribunal for Rwanda from 1 June to 31 July 2016, the Advisory Committee recalls that in its resolution 70/241, the General Assembly noted that the liquidation was estimated to be completed in five months, beginning on 1 January 2016, and encouraged the Secretary-General to ensure that the liquidation activities were completed in a timely manner (resolution 70/241, section II, para. 5). Upon enquiry, the Advisory Committee was informed that, according to the Secretary-General, the five-month period to complete the liquidation of the Tribunal was a best estimate allowing to continue dealing with the pending liquidation activities at the end of the estimated period, given that not doing so would have left a considerable amount of liquidation tasks unfinished. **The Advisory Committee notes with regret that the explanations provided for extending the duration of the Tribunal's liquidation phase, and on the related overexpenditures, had not been made known to the General Assembly until the latest report of the Secretary-General (A/71/577), issued in November 2016, while the decision to extend the liquidation period had been taken much earlier in the year. The Committee considers that as a matter of standard practice, information on any significant difficulties encountered by the Secretary-General in the liquidation of United Nations entities should be provided to the Assembly as soon as these difficulties become apparent to facilitate the implementation of corrective measures and to protect the resources of the Organization.**

11. The Secretary-General proposes to transfer and to charge the additional expenditures for the International Criminal Tribunal for Rwanda ($3,726,700), and further expenditures if any, to the budget of the International Residual Mechanism for Criminal Tribunals (the Residual Mechanism) for the biennium 2016-2017, in excess of its initial appropriation. This transfer is proposed to be reported in the context of the second performance report of the Residual Mechanism (A/71/577, para. 5). Upon enquiry, the Advisory Committee was informed that the Secretary-General requests approval for the transfer and charge of the above-mentioned overexpenditure on the basis of Security Council resolution 1966 (2010), in paragraph 4 of which the Council decided that, as of the commencement date of each of its branches, the Residual Mechanism would continue the jurisdiction, rights and obligations and essential functions of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda. All contracts and international agreements concluded by the United Nations in relation to the Tribunals and still in force as of the relevant commencement date, would continue in force mutatis mutandis in relation to the Residual Mechanism.

12. The actions to be taken by the General Assembly are set out in paragraph 13 of the Secretary-General's report (A/71/577). **Subject to its comments and recommendations above, the Advisory Committee recommends that the Assembly:**

(a) **Approve the final appropriation for the International Criminal Tribunal for Rwanda for the biennium 2016-2017 in the amount of $2,086,100 gross ($1,978,800 net) as initially appropriated by the Assembly in resolution 70/241;**

(b) **Approve the transfer and charge of $3,726,700 gross ($3,466,000 net) as part of the estimated final expenditure, and further expenditures, if any, in**

excess of the approved appropriation for that purpose, under the 2016-2017 budget for the International Residual Mechanism for Criminal Tribunals, to be reported in the context of the second performance report on the budget of the Mechanism.

III. International Tribunal for the Former Yugoslavia

13. The projected variances described in the report of the Secretary-General (A/71/578) show increases related to: (a) exchange rates in the amount of $3,798,700, which is attributable mainly to the weakening of the United States dollar against the euro; and (b) adjustments of the standard salary and common staff costs amounting to $345,900. **The Advisory Committee trusts that the most recent figure will be used to determine the forecasted exchange rates and that relevant information will be provided to the General Assembly at the time of the consideration of the present report.**

14. The Secretary-General's report indicates that the projected variances also include decreases related to: (a) inflation assumptions in the amount of $1,076,600, which are based on the post adjustment multipliers for Professional and higher categories of staff in 2016 to date, the actual versus budgeted cost-of-living adjustments for General Service and related categories of staff in 2016 and projections for 2017, and the latest available information on consumer prices in The Hague; and (b) higher actual vacancy rates than projected, resulting in a decrease amounting to $751,100.

15. The actions to be taken by the General Assembly are contained in paragraph 11 of the report (A/71/578). **Subject to the information to be provided to the General Assembly (see para. 13 above), the Advisory Committee recommends that the Assembly:**

(a) **Take note of the report of the Secretary-General (A/71/578);**

(b) **Approve a revised appropriation for the International Tribunal for the Former Yugoslavia for the biennium 2016-2017 in the amount of $98,064,000 gross ($86,737,900 net), reflecting an increase of $2,316,900 gross ($1,893,300 net).**

IV. International Residual Mechanism for Criminal Tribunals

16. By its resolution 70/243, the General Assembly appropriated to the special account for the International Residual Mechanism for Criminal Tribunals a total amount of $137,404,200 for the biennium 2016-2017. The Secretary-General indicates that technical adjustments would result in a decrease in requirements amounting to $1,656,500. The revised appropriation for the biennium 2016-2017 would amount to $135,747,700.

17. The projected variances show decreases in relation to: (a) inflation assumptions in the amount of $788,300, which is attributable to the projected inflation rates in Arusha and The Hague. The decreased requirements relate mainly to non-post objects of expenditures owing to lower than expected inflation rates.

(b) standard salary and common staff costs amounting to $3,728,000, which reflects actual payroll average salary costs of Professional and Field Service categories ($1.7 million), and common staff costs ($2.0 million), because of reductions in appointment costs and hardship and mobility allowances, offset in part by increases under medical insurance premiums.

18. The projected variances described in the report of the Secretary-General show increases related to: (a) exchange rates in the amount of $1,781,600, which is attributable mainly to the depreciation of the United States dollar against the euro, and is partly offset by appreciation of the United States dollar against the Tanzanian shilling; and (b) actual vacancy rates that were lower than projected resulting in an increase amounting to $1,078,200.

19. The actions to be taken by the General Assembly are contained in paragraph 12 of the report of the Secretary-General (A/71/579). **The Advisory Committee recommends that the Assembly:**

(a) **Take note of the report of the Secretary-General (A/71/579);**

(b) **Approve a revised appropriation for the International Residual Mechanism for Criminal Tribunals for the biennium 2016-2017 in the amount of $135,747,700 gross ($125,153,500 net), reflecting a decrease of $1,656,500 gross ($1,791,800 net).**